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January 25, 1995

VIA HAND DELIVERY

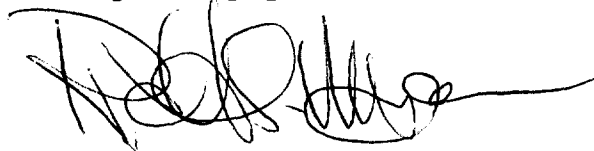
Mr. William Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

On behalf of Personal Phone, L.P., enclosed are an original and four copies of comments in Docket PP 93-253 requested by the Commission in a Public Notice dated December 23, 1994. We have also enclosed a file copy which should be stamped and returned to the courier.

If you have any questions regarding this filing, please contact the undersigned at (202) 371-0789.

Very truly yours,



Richard S. Myers

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Implementation of Section 309(j)) PP Docket No. 93-253
of the Communications Act -)
Competitive Bidding)

COMMENTS

In a Public Notice dated December 23, 1994, the Commission sought comments regarding the administration of auctions for the D, E and F blocks in the Broadband PCS. Accordingly, Personal Phone, L.P., by its attorney, submits the following comments.

Personal Phone, L.P. qualifies as a small business under the Commission's designated entity criteria. Therefore, Personal Phone's comments focus on ensuring that designated entities have the best opportunity under the Commission's rules to secure a PCS license through the Commission's auction process. Separating the Block F auction from the Block D and E auction will further this goal. In addition, Personal Phone urges the Commission to take this opportunity to amend its rules so that designated entity provisions will apply to all blocks. Finally, the Commission should consider reducing the amount of upfront payment required to participate in the BTA auctions.

I. SEPARATE AUCTIONS.

Personal Phone submits three reasons why the Commission should maintain a separate auction for the Block F BTA licenses. First, aggregating the three auctions will result

in the offering of 1,479 PCS licenses at the same time. While the Commission has indicated that it is confident it can administer an auction for this number of licenses, Personal Phone argues the risk of error associated with the auction of such a large number of licenses, particularly given the Commission's complicated rules regarding bidder eligibility, outweighs any potential benefit of aggregating the three blocks. Instead, the Commission should maintain a separate Block F auction to ensure that the smaller applicants will not be overwhelmed by the magnitude of an aggregated auction.

Second, an auction involving 1,479 licenses could last several months or longer, particularly given that eligibility to bid on two-thirds of the licenses will be open to all applicants. An auction spanning a long period of time is particularly detrimental to small companies which cannot afford to allocate employees over a long period of time simply to participate in an auction. Maintaining a separate auction for Block F licenses will reduce the number of eligible bidders and thus reduce the amount of time required for completing the auction.

Finally, Personal Phone contends that aggregating the auctions will require an extensive re-thinking of the Commission's anti-collusion rules. If, as proposed by the Commission, entrepreneurs were permitted to enter into agreements with large companies in an aggregated auction, the Commission's set aside of Block F licenses would have to be

further protected with new rules addressing such agreements, and the opportunity for circumventing the set-aside would be enhanced. To maintain the integrity of the Commission's set-aside, Personal Phone argues that the Block F auction should remain separate from the Block D and E auction.

II. DESIGNATED ENTITY PROVISIONS.

Presumably, the Commission set aside two blocks for entrepreneurs so that the price of the blocks would not be bid up by large companies. Even with presumably deflated prices, the Commission found it in the public interest to permit installment payments for designated entities placing the high bid on entrepreneurs blocks. Assuming that prices for Blocks D and E will exceed per pop prices for set-aside blocks, then the need to aid designated entities is even greater. Accordingly, it would be consistent for the Commission to apply designated entity provisions to the Block D and E auctions.

III. UPFRONT PAYMENTS.

Designated entities are permitted to pay their bids in installments. Within five days after grant of the initial license, a designated entity will have made payments equal to 10% of its bid. By permitting installment payments, the Commission has recognized that designated entities may not have the entire amount of their bids on hand once the auction concludes.

An upfront payment is used to ensure that only serious

bidders participate in the auction and to provide the FCC with a portion of the required down payment. Set too high, the upfront payment becomes a mechanism that excludes serious designated entities from the auction. An upfront payment that is set too high effectively eliminates the benefit of installment payments by requiring the designated entity to have more cash available than would be required for meeting its down payment.

The upfront payment for entrepreneurs block licenses is \$0.015 per pop per MHz. When the 10% down payment equals the upfront payment, then the upfront payment is one-tenth of the winning bid. Accordingly, when the winning bid is ten times greater than the upfront payment, the designated entity will not have to make any further down payment. The upfront payment ends up covering the down payment. If the winning bid is less than 10 times greater than the upfront payment, then the designated entity will have paid the FCC more money than required for its 10% down payment. As stated above, when this happens, the benefit of installment payments is reduced or eliminated.

As a rule of thumb, a high bid by an entrepreneur that is less than \$0.15 per pop per MHz results in an upfront payment that is set too high, i.e., the upfront payment required more cash than the down payment to be paid by an entrepreneur. After 45 rounds in the MTA auctions, there are still many markets in which an entrepreneur would be entitled to a refund of a

portion of its upfront payment. High bids for MTA licenses in markets such as Kansas City, Birmingham, Cincinnati, Minneapolis and Pittsburgh are all less than \$0.15 per pop per MHz. Personal Phone concedes that the MTA auctions have not yet concluded, but 45 rounds is a significant number. Accordingly, Personal Phone recommends that upfront payments be reduced to \$0.005 per pop per MHz. At a minimum, the Commission should review its upfront payment requirements for future auctions once the MTA auctions come to a close.

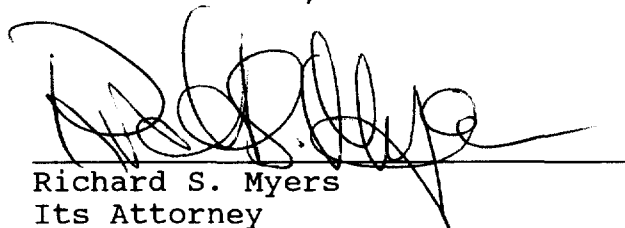
IV. CONCLUSION.

Based on the foregoing, Personal Phone urges the Commission to maintain a separate auction for the Block F PCS licenses, apply designated entity provisions to the Block D and E auction and reduce the amount of the upfront payment required of bidders eligible for installment payments.

Respectfully submitted,

PERSONAL PHONE, L.P.

By:



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Its Attorney

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